

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF OKLAHOMA

3 AUDREY MYERS, Personal)
Representative of the Estate of)
4 MICHAEL EDWIN SMITH, now deceased,)
Plaintiffs,)

6 vs.) No. 17-CV-90-RAW

7 BOARD OF COUNTY COMMISSIONERS)
OF MUSKOGEE COUNTY; ROB FRAZIER,)
8 SHERIFF OF MUSKOGEE COUNTY, in his)
Official Capacities; TURN KEY)
9 HEALTH CLINICS, LLC; and DOES)
II through XX;)

10 Defendants.)
11



12

13 VIDEOTAPED DEPOSITION OF
14 CHARLES STANLEY PEARSON, JR.
15 TAKEN ON BEHALF OF THE PLAINTIFF
16 IN MUSKOGEE, OKLAHOMA
17 ON SEPTEMBER 15, 2018

18

19 REPORTED BY: KAREN B. JOHNSON, CSR

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1 whether it be 1:00, 2:00 in the morning when I got
2 the phone call, I didn't wait, to make sure that
3 that inmate was being taken care of.

4 You know, you try to micromanage and you
5 try to do the very best you can, because just like
6 everyone in this room has children, parents,
7 friends, has relatives they care about and they
8 want -- they all want to be assured that when their
9 loved one or friend or whatever is in that facility
10 that they are taken care of. And I think that my
11 actions over the past 16 years, the due diligence I
12 did and the policy and procedures and the -- the
13 state-of-the-art camera system that -- that at the
14 time and probably still does outweighs, is better
15 than any camera system in any facility in the state.
16 You know, that's pretty much where I wanted to go
17 with that, but, you know.

18 Q When Michael was admitted into the
19 facility, on that same day, there were medical
20 records that were faxed to the nurse practitioner --

21 A Yes.

22 Q -- that actually demonstrated what
23 Michael's history was.

24 A Yes.

25 Q Did you have any involvement in that or

1 in your facility?

2 A No, I can't say that I believe or
3 disbelieve. I know he had Stage IV cancer and it is
4 not easy. I believe -- you know, I know Mike
5 suffered. You know, Lowell, we've had, in my
6 career, I can't tell you how many inmates have come
7 through that facility and were terminal and there
8 wasn't nothing we could do for them.

9 Q Sheriff, go ahead, I'm sorry.

10 A It's just, you know, this is one of those
11 things where we can debate it all day long, you
12 know. I had a minor heart attack recently and, you
13 know, there's just -- there's just so much that
14 people can do for you, the rest is left up to you,
15 and it's -- it's a fact of getting older and -- but
16 I don't -- I don't think Turn Key, and I definitely
17 don't think Nurse Smith would overlook any person.
18 I stand firm with that and that's one of the reasons
19 he was my physician before Turn Key come in, I
20 believe that's one of the reasons they kept him.

21 Q Talking about APRN Smith?

22 A Yes.

23 Q What is the reason why you had Turn Key
24 come in?

25 A Excuse me?

1 Q What is the reason why you had Turn -- let
2 me ask you, there's a period of time in which the
3 facility had their own medical staff that was
4 employed?

5 A Correct.

6 Q Then there was -- then Turn Key was hired
7 and they were there for about -- from about March of
8 2016 until that contract was terminated.

9 A Correct. I tell you, to provide better
10 medical care than what I was able to provide myself,
11 these people, I can't -- I don't have nothing but
12 good things to say about them. I believe it
13 improved the quality of health care in the facility,
14 I believe inmates were saved because they were
15 there, with their ability to administer Narcan and
16 so many other things that come with this company,
17 you know. I think it saved the taxpayers a lot of
18 money. I believe it saved a lot of lives and we'll
19 never know how many.

20 Q Was it a financial decision to where you
21 were able to contract the services of Turn Key for
22 less than if you had independently provided for the
23 services?

24 A It was more -- it was more expensive.

25 Q What was more expensive, Turn Key was?

1 when a detainee is confined in your facility and
2 that they're experiencing a medical emergency to
3 make sure that they can get the emergency help that
4 they need; correct?

5 A Yeah. And, Lowell, you're asking the
6 questions.

7 Q Sure.

8 A And you've been an attorney here.

9 Q Right.

10 A And you have called me with medical
11 concerns for your clients, and I was on it just like
12 I would anybody else. Allen Counts has called me.
13 And I'm going to tell you, if I know of somebody
14 suffering, I'm going to find out.

15 Q But in this case, you didn't know he was
16 suffering?

17 A I didn't know it, but if I'd have known
18 it --

19 Q Because the information, did it get -- at
20 what point did you find out the severity of the
21 situation?

22 A You served me a tort claim.

23 Q So it was at that point, so before that,
24 did Turn Key ever notify you?

25 A No.

1 Q Did --

2 A I -- Mike -- Mike knows, too. Mike has
3 sent me notes over the years. Mike is -- you get
4 ahold -- he knew he could send me a note.

5 Q Are you talking about --

6 A From the jail. Yeah, Mike Smith.

7 Q Okay. And, Sheriff, what -- what I'm
8 getting at is that while a detainee is confined in
9 your facility, even though Turn Key is contracted to
10 provide medical services, if that detainee is denied
11 adequate medical treatment, then ultimately, the
12 sheriff of Muskogee County at that time is
13 responsible; correct?

14 A No, I don't. That's reason I --

15 Q Who else?

16 A -- hired Turn Key.

17 Q But Turn Key doesn't shirk their
18 responsibility ultimately at the end. I mean, I
19 understand Turn Key is responsible for providing
20 medical services, but when Turn Key doesn't do that
21 or if they don't do that, then ultimately you're
22 responsible.

23 A I think they done everything they could
24 within their power for a man with Stage IV cancer.
25 And I tell you what, when God comes knocking on the

1 door for you and me, and just like he did my wife,
2 there's no getting away from it. Now, we can make
3 you as comfortable as possible, and I swear to God
4 on everything that I know, we're going to do that
5 and I -- and I truly believe that that was done in
6 this case. You know, Mike --

7 Q Go ahead.

8 A Mike -- Mike was his own person, and I
9 tell you, if I'd have known, I'd have been -- I'd
10 have went and seen him personally.

11 MR. ARTUS: It's been an hour, let's take
12 a break.

13 MR. HOWE: Sure.

14 THE VIDEOGRAPHER: Off the record.

15 (Break taken from 12:02 to 12:14)

16 THE VIDEOGRAPHER: We are back on the
17 record.

18 Q (By Mr. Howe) Sheriff, when you hired
19 Turn Key, you said -- or let me withdraw that
20 question.

21 You said there's so many allegations that
22 you received daily as sheriff; right?

23 A Well --

24 Q When you say "allegations," what are you
25 referring to?

1 is 282, you probably got -- you got people -- you
2 don't have enough room for everybody; right?

3 A No.

4 Q As a matter of fact, you got people piled
5 on top of each other, don't you?

6 A We tried not to, but there was times, yes,
7 we -- I contracted with Craig County Jail, Cherokee
8 County Jail to -- and I would have even 40, 30, 40
9 inmates in these other facilities.

10 Q Okay. But at this time, is that what you
11 had?

12 A You know, whatever you -- you -- I'm sure
13 you've got the figure and I'll -- I'll stipulate to
14 whatever figure you got at the time.

15 Q You also stated that while -- when you say
16 you received so many allegations from detainees, do
17 you receive so many allegations from detainees in
18 addition to saying that they're sick and they're not
19 getting --

20 A Families.

21 Q Oh, families, okay.

22 A Families, detainees. You know, they --
23 they could send me a note, and I looked at every
24 one.

25 Q What are the reasons why a detainee is

1 sent to detox 115?

2 A Excuse me?

3 Q What are the reasons why a detainee would
4 be confined to detox 115 when they were originally
5 housed in general population, cell block 1?

6 A I don't understand the question.

7 Q You understand -- or do you know if I say
8 detox 115, that's actually a unit in your facility?

9 A That's -- that's one of many. We've got a
10 rubber room 113, 114, 15, all the way up to 111,
11 those are just rooms off of -- now, if you have
12 medical condition or -- or a mental condition,
13 which, unfortunately, that's -- we -- we would put
14 people in those rooms, that way they could be
15 monitored with a camera system at all times, and we
16 could monitor them when they're eating, you know,
17 the jail staff, medical.

18 Q Do you -- what is the reason why the Turn
19 Key contract ended?

20 A It didn't end with me.

21 Q So was that because of the new
22 administration?

23 A You would have to ask them, Lowell, I
24 don't know.

25 Q So did Turn Key terminate their -- or did

1 correct?

2 A Correct.

3 Q And you agree with me the denial of
4 medical care to a detainee while they're confined in
5 your facility --

6 A Violation of policy.

7 Q And denial of adequate medical care is a
8 violation of their constitutional right; correct?

9 A Well --

10 MR. ARTUS: I'm going to object to the
11 form of the question because now you're getting into
12 what the legal standards are for constitutional
13 violation, which is vastly different than a policy
14 violation. And the law is policy violation isn't a
15 constitutional violation, and if we want to get into
16 it, we can do that off the record or on the record,
17 but as you know, it requires a standard of
18 deliberate indifference.

19 Q (By Mr. Howe) When a detainee comes into
20 your facility with a serious medical condition, it's
21 important that your facility know that; correct?

22 A Correct.

23 Q It's also important when a detainee comes
24 into your facility if their medical condition
25 worsens, that the facility should know about that;

1 area; correct?

2 A Correct.

3 Q As a matter of fact, when detainees are
4 sent to detox 115, that's also considered a form of
5 punishment; correct?

6 A No.

7 Q It's not?

8 A No.

9 Q They don't view it as punishment?

10 A No, we -- we put them down there so we can
11 watch them, there's a reason we -- we got to put
12 them down there, whether --

13 Q Okay.

14 A -- they're -- they're sick, they're a
15 bully, they're -- they're -- you know, we got
16 cameras everywhere there, even in the rooms, there's
17 a reason for that. And the staff is going in and
18 out of there constantly throughout the day bringing
19 people in and out, so they -- I mean, they're there
20 for them to see.

21 Q So with the staff going in and out there
22 constantly --

23 A You know, the inmate may think it's --
24 it's punishment or because of that, but, no, we got
25 to watch them and -- and --

1 Q So who's watching them?

2 A Well, the -- the booking, they got windows
3 right there, they got cameras, they got the guy
4 right there sitting there, people coming in and out,
5 officers and deputies, and the staff is going back
6 there every hour.

7 Q So what you're saying is that there should
8 be eyes on them; correct?

9 A In most cases, I mean, 350 inmates, and
10 detox gets crowded, but it's -- it's the best place
11 to keep an eye on someone.

12 Q You -- you also believe that when you have
13 somebody that's put in, say, for example, detox 115,
14 one, for medical observation purposes for allegedly
15 their own safety, that the facility should know that
16 they need to -- their employees need to monitor that
17 patient; right?

18 A Yes.

19 Q And as a matter of fact, you can't say for
20 certain whether the facility was actually notified
21 that Michael Smith was reassigned there for medical
22 observation; correct?

23 A I can't say, I believe it was, based on
24 what the conversations Jeremy and I had.

25 Q Okay. Well --

1 he's losing the inability (sic) to walk and that he
2 is -- and that he feels that something is seriously
3 wrong with him, and it's known he has Stage IV
4 metastatic cancer that we continue to refer to as
5 terminal, what was the harm in him not being sent to
6 the hospital?

7 MS. THOMPSON: Object to form.

8 Q (By Mr. Howe) Or excuse me, what was the
9 harm in him being sent to the hospital in that
10 circumstance?

11 A I don't know what the reasoning was behind
12 that, I don't -- you'd have to ask the nurse and the
13 other employees of Turn Key, as well as the
14 supervisors in the facility.

15 Q But -- but you agree with me that Turn Key
16 had the authority to make a decision that Michael
17 Smith be sent to the hospital; correct?

18 A I do.

19 Q And that wasn't done in this case;
20 correct?

21 A Not to my knowledge.

22 Q And you're aware that instead of sending
23 him to the hospital, that he was actually confined
24 to a detox 115 cell for medical observation;
25 correct?

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1 A Correct.

2 Q They can't get to their own food tray;
3 right?

4 A Correct.

5 Q And when medical staff, you would expect,
6 is alerted of these issues and requests that he be
7 seen, you expect them to take the proper steps to
8 protect his medical -- Michael Smith's medical
9 needs; correct?

10 A Absolutely.

11 Q Generally does the -- it's true that the
12 jail does not assign a wheelchair to somebody who
13 can walk on their own, do they?

14 A I don't understand.

15 Q The facility does not provide a wheelchair
16 to somebody that doesn't need one, do they?

17 A No, no, no.

18 Q As a matter of fact, usually has to do
19 with their inability to walk; right?

20 A Correct.

21 Q Their inability to get around on their
22 own; correct?

23 A Correct.

24 Q You would also agree with me that when you
25 hire Turn Key, you expect them to keep adequate

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1 medical charts; correct?

2 A Correct.

3 Q You also expect them, that when they are
4 treating patients in your facility, that you are
5 ultimately responsible for, to know the information
6 related to that patient that's important to their
7 care; correct?

8 A Yes.

9 Q Are you aware of in this case of whether
10 Turn Key actually did anything, other than provide
11 -- well, let me ask you this, I withdraw that
12 question.

13 Turn Key has the authority, under the
14 agreement that you have with them, to say that a
15 detainee is -- needs to go to the hospital; correct?

16 A Yes.

17 Q During this time period, was this a time
18 in which if an ambulance would be called and then an
19 ambulance would then pick the detainee up and take
20 them to the facility?

21 A Possibility, yes.

22 Q Is it also a possibility that the facility
23 staff had the ability to take a detainee to the
24 hospital?

25 A Every employee of that jail had that.

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1 Q So you didn't even need an ambulance to
2 get there; correct?

3 A Yes, didn't, no, no.

4 Q As a matter of fact, your facility staff
5 had the authority, while a detainee was in custody,
6 to take them to the hospital; correct?

7 A Call an ambulance or --

8 Q And when the detainee --

9 A And they -- we don't get charged for using
10 EMS.

11 Q Because there's a separate agreement;
12 right?

13 A No, they just county government, they
14 don't charge us.

15 Q Sure. Okay. So you don't have to pay for
16 Muskogee County EMS; right?

17 A No.

18 Q So there's not really --

19 A As far as expenses, that don't play into
20 this case, I don't believe.

21 Q Well --

22 A For taking him to the hospital.

23 Q So in this case, your facility and Turn
24 Key have a responsibility to communicate regarding
25 Michael Smith while he is confined in your -- while

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1 A Correct.

2 Q And detainees do not have the ability to
3 personally call 911 for an ambulance while in
4 custody from a -- the facility phone, do they?

5 A No.

6 Q Now, as a matter of fact, the medical
7 staff has the ability to call 911; correct?

8 A Everybody, every employee of that jail has
9 that ability.

10 Q And that would also include Turn Key
11 medical staff; correct?

12 A Turn Key medical on down to the runners
13 and --

14 Q But detainees do not?

15 A Do not. They do not.

16 Q And, also, when we talk about the kiosk,
17 we talk about is that how they would also access a
18 phone in that section of the facility, once, you
19 know, you got detox 115, the room, and then they get
20 out and then there's the open area where the kiosk
21 is?

22 A Yes.

23 Q Is there also a phone there or can you --
24 do you use the phone through that kiosk? How does
25 that work?

1 is not --

2 MS. THOMPSON: Same objection.

3 Q (By Mr. Howe) But the medical record is
4 from Cindy Bilyeu, who is not facility staff;
5 correct?

6 A Well, I don't know.

7 Q Well, isn't general --

8 A Based on what the information I got from
9 Jeremy, this was -- this was done just like by the
10 book.

11 Q Well, Jeremy said he didn't know anything
12 about Michael being sent there because he didn't
13 approve it.

14 A When we talked, he explained to me where
15 Mike was put, after the tort claim was filed and,
16 you know, all -- whatever medicine and this and
17 that, of course, that's out of my league, but he --
18 he did his best to attempt to explain to me that
19 based on his opinion and mine, I think everything --
20 policy was followed.

21 Q Can you punish inmates for seeking medical
22 help?

23 A Absolutely not. That's not punishment.

24 Q And a detainee -- and a detention officer,
25 when a detainee, for any reason, is assigned to

1 case the same as what the actual individualized
2 treatment plan is?

3 A Well, I mean, you're getting into --

4 Q Because it's not.

5 A Well, that's your opinion, Lowell.

6 Q No, but I understand --

7 A This is a -- this is a jail facility with
8 350 soul -- 300 to 350 souls in it, and you've got
9 Turn Key, who is a professional organization that
10 their sole purpose is here to help us preserve life,
11 not to preserve us from getting in lawsuits, all
12 right, and -- and, in my opinion, based on my
13 dealings with Turn Key and the things that went on
14 in that facility, I think they saved lives, I think
15 they done everything within their power and
16 knowledge, and with Mike Smith, the -- the nurse, I
17 have full faith that these people done everything
18 within their power to take care of this man.

19 Now, Mike Smith, Mike that I grew up with
20 had his own, you know, communication skills, they
21 had theirs, if there was a breakdown, which I think
22 maybe there was here, I don't know, but I wasn't
23 there, I didn't know about it till after the tort
24 claim, but based on all the information I seen, I
25 think they done everything within their power to

1 help Mike. Now --

2 Q So, again, Turn Key -- well, let me just
3 ask you this --

4 A I'm not going to change my opinion,
5 Lowell.

6 Q I'm not asking you to change your opinion
7 about Turn Key.

8 A Okay.

9 Q What I am asking you, Sheriff, is to tell
10 me are you aware of a written treatment plan for
11 Michael Smith?

12 A No, I'm not. No, I'm not.

13 Q You would agree with me that it's against
14 policy to leave an inmate laying in their own urine;
15 correct?

16 A It's more than just policy.

17 Q As a matter of fact --

18 A It's a moral.

19 Q It's inhumane, isn't it?

20 A It's very inhumane.

21 Q It's barbaric, isn't it?

22 A In my opinion, yes.

23 Q It's -- it's depraved, isn't it?

24 A You know, I got loved ones, you got loved
25 ones.

1 Q Right. Right. But it's depraved, isn't
2 it? Wouldn't that be depraved?

3 A You bet you.

4 Q And what about not only leaving them to
5 lie in their own urine, but their own feces, it's
6 just as bad, isn't it?

7 A It's pretty bad, Brother. I think you
8 know -- everybody in this room knows how I feel
9 about that that knows me.

10 Q And it's also against policy to not -- for
11 the facility not to perform proper cell checks;
12 correct?

13 A Absolutely.

14 Q It's also -- you would agree with me when
15 you have a detainee that has basic needs, detainees
16 have basic needs, and what I would mean by that is
17 they need to have the ability to use a toilet on
18 their own; correct?

19 A Right.

20 Q They need to have the ability to clean
21 themselves; correct?

22 A They need to, they don't always have that.

23 Q Okay. But they -- it's something that if
24 they can't do it, somebody needs to help them do it
25 while they're in the facility; correct?

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1 receive medical care while they're in your facility;
2 correct?

3 A Correct.

4 Q And it's against policy, when you have a
5 detainee who's unable to use the rest room, it's
6 against policy not to help that detainee use the
7 rest room; correct?

8 A What?

9 Q Or to use the bathroom, to use their
10 toilet. When you have a detainee in your facility
11 that cannot use the toilet on their own, it's
12 against policy to not have your facility staff --

13 A Right.

14 Q -- assist them; correct?

15 A Right.

16 Q It's also against your policy if they
17 can't clean themselves up --

18 A Yes.

19 Q -- to -- for your facility staff --

20 A I think we've made that abundantly clear.

21 Q Okay. But I'm -- but it's also against
22 your policy --

23 A I'll stipulate to that, Brother, I'm going
24 to tell you --

25 Q Let me ask you if you'll stipulate to it's

1 against the policy that if a detainee requires
2 assistance to access the toilet so that they could
3 use the rest room, to clean himself up, to keep a
4 clean cell, to bathe themselves, to get their own
5 food tray and be able to eat, to change their own
6 clothes, to take medicine, and to get emergency care
7 if they need it --

8 A I think we've already covered that.

9 Q And is it -- what I'm saying, though --

10 A I've said yes.

11 Q Let me finish. But it is against policy
12 that if they can't do those things, that the
13 facility staff is responsible for assisting them in
14 that; correct?

15 A I totally agree.

16 Q In review of these records, I have not
17 seen any proof where any person ever approved the
18 housing assignment of reassignment of Michael Smith
19 to detox 115, have you seen any documents that show
20 that?

21 MR. ARTUS: Object to the form.

22 Q (By Mr. Howe) Where the facility staff
23 approved it? I have where medical -- Cindy Bilyeu
24 actually said that he needed to go there for his own
25 safety, but I'm saying I did not see anything --

1 responsibility to provide adequate medical care to
2 the detainees; correct?

3 A Correct.

4 Q We also were talking about Turn Key and we
5 were talking about Turn Key, Turn Key's
6 responsibility pursuant to their contract -- have
7 you seen their contract?

8 A Yes.

9 Q Okay. I'm going to hand you what's -- let
10 me see, I'm going to hand you what's been previously
11 introduced in these proceedings as Plaintiff's
12 Exhibit 22. Do you recognize that?

13 A Yes, I do.

14 Q Take a chance to flip through it. And
15 it's identified, again, as Plaintiff's Exhibit 22,
16 and it's -- on the bottom it says DDR Number 5, and
17 it goes from Pages 97 --

18 A Yes, I'm very familiar.

19 Q -- until 109.

20 A I mean, I haven't read it in a while,
21 but --

22 Q But it goes to Page 109.

23 A Yes.

24 Q So if you look at Page 109, Sheriff, which
25 is the very last page.

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1 A Yes.

2 Q This shows that this is the contract and
3 where it says Charles Pearson, that's your
4 signature; correct?

5 A Correct.

6 Q And Flint Junod, he's a CEO or COO for
7 Turn Key; correct?

8 A Correct.

9 Q And then this contract's also approved by
10 the county commissioners; correct?

11 A Right.

12 Q This is the actual contract that you
13 entered into with Turn Key to provide medical
14 services to the facility; correct?

15 A Yes.

16 Q But you did not contract with Turn Key to
17 provide any other services, other than medical;
18 correct?

19 A No.

20 Q I also want to turn your attention to what
21 I previously introduced as Plaintiff's Exhibit 20,
22 which is actually -- it says 13-1 on front it, it
23 says DDR Number 5.

24 A Uh-huh. Yes.

25 Q It's Pages 42, and then it goes to 93,

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1 A Yes.

2 Q Is it important for you to know when the
3 physician that's been hired by Turn Key is -- is
4 showing up on Mondays and Thursday evenings, is it
5 important for you to know that? Let me ask you
6 this, I can rephrase this question.

7 A When I hired them to handle it, I trust
8 them to handle it, and based on what I went through
9 as sheriff and what -- I had 24-hour coverage then
10 and I didn't before.

11 Q This nurse physician, this is a very
12 important part of providing medical services;
13 correct?

14 A Everything in here is important.

15 Q Right. But what I'm saying is the nurse
16 physician who's supposed -- that's referred to in
17 this as a jail doctor, then visiting twice a week
18 for sick call, that's an important service; correct?

19 MS. THOMPSON: Lowell, you said nurse
20 physician.

21 MR. HOWE: No, I said Nurse Smith, who's
22 also -- I said the physician or Nurse Smith or who
23 also is referred to in here as being the person
24 that's the jail doctor.

25 MS. THOMPSON: I just -- I just wanted to

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1 Number 21 and I want to refer you to Pages Number
2 388 and 389 of this document.

3 A Let's get to it.

4 Q No, you need this. That's your copy, sir.

5 A Okay.

6 Q That is actually the document.

7 A That I just spoke about, medical
8 questionnaire, the triaged when they come in, okay.

9 Q So in looking at that document -- you just
10 stated that you were aware that Michael Smith had
11 Stage IV metastatic cancer. On that document, the
12 purpose of that, when they're triaged, is determine
13 what their medical issues are when they come into
14 your facility; correct?

15 A That's correct.

16 Q And the responsibility of that is the
17 booking officer; correct?

18 A Correct.

19 Q And that document, what that's supposed to
20 do is give you an understanding of what the exact
21 health condition is of that detainee when they're
22 booked in; correct?

23 A Correct.

24 Q And looking at that document, one of the
25 ways to verify that the questions that were asked

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1 --

2 A So we'll know. It's for us, that ain't
3 for him or you, this is for us and Turn Key, this
4 ain't for you.

5 Q It's not? Then why is the detainee
6 required to sign it?

7 A He's not required to sign it.

8 Q Well, why is there a signature place for
9 it?

10 A They had somebody put it on there, OTIS,
11 when they designed this system 20 years ago put that
12 in there, that was back when we used to use cards.

13 Q So are you saying that it is not --

14 A This is Muskogee County, Brother.

15 Q I'm asking, are you saying it is not the
16 policy, practice or procedure of detainees to be
17 required to sign that form?

18 A No, not to my knowledge, it's not.

19 Q Are you aware that if you read through the
20 questions that were asked and the answers that were
21 given, it states that Michael Smith had no medical
22 issues?

23 A Yeah.

24 Q But we know that's not true; correct?

25 A We know that now, but we didn't --

1 A No. We'll let them do it after we do
2 their property and all that, then we allow them to
3 sign that, and I think there's another piece of --
4 deal that goes with it, but as far as this, and I
5 can't remember, I've had this discussion with my
6 staff, and I don't remember what -- what it was
7 because it's been so long ago, but this
8 questionnaire was not -- this is a booking
9 questionnaire, they also had another one that we
10 used. See, this is something --

11 Q Where is that?

12 A You going to let me finish?

13 Q Well, I thought you answered my question.

14 A No, I'm going to finish. We -- Turn Key
15 was a fairly new deal, that way we had 24-hour
16 medical coverage. Now, prior to them coming in, we
17 had a document that our nurse would meet the inmate
18 down there and fill that out, and if she wasn't
19 available, then one of the booking, and they -- I
20 don't think they signed it at all, it was just for
21 our information, are you suicidal, boom, you know,
22 standard questions we've asked ever since 1991 when
23 I started.

24 Now, when Turn Key come in, they may have
25 had a different document that we don't -- I don't

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1 Q And it's against policy if that physician,
2 in this case, APRN Smith, does not visit twice a
3 week; correct? Right?

4 A When I had it, yes, but when -- you know,
5 I don't know what resources they had in there and I
6 don't know what their requirement was and I can't
7 answer for Turn Key.

8 Q It's against policy to deny a detainee's
9 access to sick call; correct?

10 A I never deny them that.

11 Q So that's a yes?

12 A No, it's not, I'm not going to agree with
13 on something I don't know what you're talking about.

14 MS. THOMPSON: Lowell, are you referring
15 to Turn Key or jail policies right now?

16 Q (By Mr. Howe) I'm talking about in
17 general, Turn Key doesn't get to a detainee,
18 generally speaking, on sick call unless they can put
19 in the request, so what I'm saying is --

20 A Sure, they can.

21 Q Is it against -- they get on the sick
22 call?

23 A I think we got documentation that they did
24 see him several times.

25 Q Is it -- so let me ask my question again.

1 Is it against policy to deny a detainee's access to
2 sick call, yes or no?

3 MS. THOMPSON: Is that Turn Key policy or
4 a jail policy?

5 THE WITNESS: Yeah.

6 Q (By Mr. Howe) I'm talking about the jail
7 policy. Because you --

8 A The jail policy is we will give -- we will
9 supply you adequate medical care and that's what we
10 did.

11 Q And that means not denying access to sick
12 call?

13 A Yeah. I mean --

14 Q It's also the policy --

15 A -- who denied him access? Do you show me
16 where he's denied access?

17 Q Sir, I'm -- Sheriff, I'm not -- it's okay,
18 let's slow down, I'm not saying that -- I'm telling
19 you or asking you questions about your policy, I'm
20 not -- it's up to the jury to decide.

21 A Then read the policy, I did.

22 Q I have, too.

23 A I wrote it, me and Jeremy wrote it, I know
24 what's in it.

25 Q Let's slow down, why don't we just see

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1 if -- my question -- what I'm going to ask you is if
2 your jail policy is this, if this doesn't happen, is
3 it against policy.

4 A Do you have proof that my employees let
5 him lay in his --

6 MR. ARTUS: Hold on.

7 THE WITNESS: You know, I'm sick of this.

8 MR. ARTUS: Hold on.

9 THE WITNESS: I'm not getting paid to be
10 here.

11 MR. HOWE: Let me just get through so you
12 can get out of here.

13 Q (By Mr. Howe) Is it against policy to
14 deny prescribed medication to inmates at the lobby
15 window?

16 A What?

17 Q Your policy, is it against policy to deny
18 prescribed medications to -- for inmates from like
19 an outside family member that are delivered to the
20 lobby window?

21 A No.

22 MR. ARTUS: He's asking you if family
23 members can bring in medicine.

24 THE WITNESS: Yeah, they can bring
25 medicine, we encourage them to, as long as it's not

1 scheduled.

2 Q (By Mr. Howe) I agree. And it's against
3 policy to deny them that when they follow the proper
4 procedure; right?

5 A When they follow the proper procedure.

6 Q It's against policy to ensure that
7 detainees are thoroughly examined to ensure that
8 they receive proper care; correct? Right, yes?

9 A What?

10 Q Is it against -- it's against policy to
11 ensure that detainees in your facility are
12 thoroughly examined to ensure they receive proper
13 medical care?

14 MR. ARTUS: You're saying it's against
15 policy for them to deny -- what?

16 THE WITNESS: That don't make no sense,
17 Lowell.

18 Q (By Mr. Howe) It's against policy, excuse
19 me, thank you. It's -- you would agree with me it's
20 against policy if detainees are not thoroughly
21 examined to ensure that they receive proper medical
22 care?

23 A We triage them when they come in the door.

24 Q Okay. Is it against policy to provide a
25 wheelchair?

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1 A What do you mean thoroughly, you mean --

2 Q I'll --

3 A -- blood pressure, all that, we're not --
4 I mean, we're not Muskogee ER, I mean, we're
5 Muskogee County Jail, we don't -- I don't know what
6 you're getting at, Brother.

7 Q It's all right. I'll just ask you another
8 question. Is it against policy to provide a
9 wheelchair to an inmate that's not in need of one?

10 A That ain't even in policy. We'll supply
11 them whatever they need to move around in the jail,
12 that's -- that's -- as long as it's safe for the
13 other inmates, as well as the staff and them.

14 Q Generally speaking, you don't give
15 wheelchairs to people that don't need them, do you?

16 A Well, I'm sure we have.

17 Q But I'm saying generally speaking, your
18 policy is not to give a wheelchair to somebody that
19 doesn't need one; correct?

20 A Correct.

21 Q Would you agree with me it's against
22 policy to deny a detainee that's experiencing
23 medical emergency transport to a hospital?

24 A I'll agree.

25 Q It's against policy to have inadequate

1 this?

2 Q (By Mr. Howe) Is it against policy for
3 your facility to fail to preserve evidence?

4 A You damn right.

5 Q Is it against policy to deny a detainee a
6 grievance form?

7 A Yes.

8 Q Is it against policy to deny a detainee a
9 sick call form?

10 A Yes.

11 Q Is it against policy to not ensure a
12 detainee has a working CIN PIN number so they can
13 use the kiosk?

14 A That's kind of a technical question, I'd
15 have to internalize that one.

16 Q When you say "internalize," what does that
17 mean?

18 A Think about it before I answered it, and I
19 haven't -- I don't even really -- those things
20 change, the technology changed, and all of us, you
21 know, I'm not much of a tech, I barely can use this
22 iPhone.

23 Q Yeah. Sheriff, but you would agree with
24 me that the PIN number, the CIN PIN number the
25 detainees are assigned is a vital --

1 there's some things I know that -- Mike was my
2 friend, and I'm going to tell you, if I had any
3 notion -- and, yes, we communicated, I can't tell
4 you that we did after this or during this, I think I
5 did receive a call or Lisa or one of his relatives
6 and it really bothered me.

7 But as far as, you know, on the record, I
8 want to say that I think Turn Key done a lot for
9 Muskogee County, made things better, no one agrees
10 with the treatment that they're placed in in a jail,
11 I mean, you're confined, you don't have no room,
12 it's miserable, you know.

13 But, you know, for the record and for the
14 family, I'm sorry, and if these things did occur,
15 I'm terribly sorry. And you're right, the buck
16 stops with me, and I -- if -- if you can show me,
17 I'll take -- I'll take it, I'll take it myself, you
18 know, because it stops with me, and, you know,
19 that's all I got to say.

20 MR. HOWE: Pass the witness.

21 CROSS-EXAMINATION

22 BY MR. ARTUS:

23 Q Mr. Pearson, you would agree, and I just
24 want to clarify, I mean, I think it's been obvious,
25 policy of the jail is to provide medical care to

1 inmates; is that correct?

2 A That's correct.

3 Q If one of your employees or one -- or one
4 of Turn Key's employees violated that policy, I
5 mean, didn't provide medical care, that would be a
6 violation of your policy?

7 A That would be a violation.

8 Q It's a -- it's a -- and you had the
9 contract with Turn Key to provide medical care;
10 right?

11 A That's right.

12 Q And that contract required them to be
13 there 24/7, 365; right?

14 A Yes.

15 Q Twenty-four hours a day, seven days a
16 week, 365 days a year; right?

17 A Yes.

18 Q And it also required Nurse Smith to make
19 two visits a week; right?

20 A A nurse, doctor.

21 Q To provide a clinic; right?

22 A Yes.

23 Q And as far as Turn Key, Nurse Smith, their
24 staff, if there's a medical issue, the jail and the
25 jail employees rely on their professional opinion as

1 to what needs to be done, in this case, for Michael
2 Smith; right?

3 A Correct.

4 Q The records show in this case that Michael
5 Smith was seen by Turn Key employees five times in
6 the 18 days he was in the jail, and are you aware of
7 any time Turn Key staff telling your staff to send
8 him to the hospital?

9 A Not to my knowledge.

10 Q And when we've been talking about, oh, who
11 has the right to move Turn -- Michael Smith down to
12 115 or who doesn't have the right, do you remember
13 those questions?

14 A Yes.

15 Q So if Nurse Bilyeu says to staff, hey, I
16 think Mike -- Michael Smith needs to go down to 115,
17 they're going to follow that, aren't they?

18 A I would expect them to, yes.

19 MR. HOWE: Objection; form.

20 Q (By Mr. Artus) Because you rely on Turn
21 Key to tell you what to do; right?

22 A Yes.

23 Q As far as medical care goes; right?

24 A Correct.

25 Q And as far as a special treatment plan,

1 you know, he was talking about chronic care plans,
2 do you remember that, you guys kind of got in a
3 fight with each other, do you remember that?

4 A Yeah, I mean, that's kind of like out of
5 my league, I think.

6 Q Well, I mean --

7 MR. HOWE: We fought for years.

8 THE WITNESS: Yeah, we have.

9 Q (By Mr. Artus) A treatment plan is what
10 Turn Key says it needs to be; right?

11 A Yeah.

12 Q So if they say, hey, Michael Smith needs
13 to be down in 115, that's part of the plan; right?

14 A Right.

15 Q If they say, hey, he needs to be put on
16 these certain medications, that's part of the plan;
17 right?

18 A Right.

19 Q And if they say, hey, he needs his blood
20 pressure checked so many times or before he gives
21 this medicine or not -- or not taking this medicine,
22 that's the plan; right?

23 A Right.

24 Q Okay. And then are you aware ever of
25 Nurse Smith or any complaints about Nurse Smith not

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1 A Right.

2 Q So it's done.

3 A I think there's another form out there
4 somewhere, I don't know where. All right. I agree,
5 yes.

6 Q Now, there's been testimony about, well,
7 there's -- you don't -- you got -- you hire people
8 to do their job; right?

9 A Right.

10 Q And -- and we hire Turn Key to do their
11 job; right?

12 A Right.

13 Q And does that mean you have to hire
14 somebody else to look at the person you hired to
15 make sure they're doing their job?

16 A No.

17 Q And then you have to hire someone to look
18 at that person to make sure they're doing their job?

19 A No.

20 Q But if somebody's not doing their job, an
21 inmate can file a grievance; right?

22 A Right.

23 Q Now, while Michael Smith was in the jail
24 during the relevant period, which was March 15th,
25 2016, to April 2nd, 2016, did anybody ever complain

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1 to you about the treatment he was receiving or that
2 he was receiving poor treatment?

3 A No, no.

4 Q Did any of his family members ever call
5 you?

6 A I don't believe I received anything till
7 after he was already in the hospital and tort claim
8 was filed. I can't remember.

9 Q Let me ask you this, when the tort claim
10 was filed, was that the first time you ever knew of
11 any mistreatment claims?

12 A Yes, yes, yeah.

13 Q And by then, all the videos already
14 recorded over itself, hasn't it?

15 MR. HOWE: Objection; form.

16 THE WITNESS: Yes.

17 Q (By Mr. Artus) Okay.

18 A We have a limited storage.

19 Q It's against policy to let any inmate just
20 lay in their own feces or urine; right?

21 A Absolutely.

22 Q And it's against policy to not let an
23 inmate see medical if they're requesting it;
24 correct?

25 A Correct.

1 Q And in addition to the kiosk, people can
2 punch the intercom and request to see medical;
3 right?

4 A Right.

5 Q And in addition to pressing the button,
6 they can ask for a form to be put on sick call;
7 right?

8 A Correct.

9 Q And in addition to that, Turn Key has
10 somebody coming twice a day passing medicine; right?

11 A Yes.

12 Q And in this case, we know that Michael
13 Smith was seen twice a day by someone from Turn Key
14 medical staff giving his medicine?

15 A Right.

16 MR. HOWE: Objection; form.

17 Q (By Mr. Artus) So at any time he can
18 complain to them; right?

19 A He also had employees bringing out
20 specialized food, I mean, there's so many other
21 things that go on here.

22 Q But the policy is if anybody -- if anybody
23 disregarded his -- his -- knew that he had a medical
24 problem that needed immediate attention and they
25 disregarded it, that would be a violation of your

1 policy?

2 A Absolutely.

3 Q And you never became aware of that until
4 you got the notice of tort claim; is that correct?

5 A That's correct.

6 Q Or that allegation, anyway; right?

7 A Allegation, yes. Tort claim.

8 MR. HOWE: Go off the record for a minute.

9 THE VIDEOGRAPHER: Off the record.

10 (Discussion off the record)

11 THE VIDEOGRAPHER: We are back on the
12 record.

13 MR. ARTUS: Okay. I'm going to pass the
14 witness.

15 CROSS-EXAMINATION

16 BY MS. THOMPSON:

17 Q I just have a few more questions for you,
18 Sheriff, so you can get out of here.

19 A Okay.

20 Q And just to remind you and everybody that
21 my name's Paulina Thompson, I represent Turn Key
22 Health Clinics, LLC, and you're still under oath.
23 If you have any questions or didn't understand my
24 question, please make sure to ask. Okay?

25 So there's been some testimony that you

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1 agree it's your responsibility to make sure that
2 inmates receive adequate health care; correct?

3 A Correct.

4 Q So it would be up to you to make sure that
5 the health care company or contractor continues to
6 provide adequate medical care or they wouldn't be a
7 contractor there anymore; correct?

8 A Correct.

9 Q And did you ever have an issue with Turn
10 Key not providing adequate medical care that you
11 know of?

12 A No, ma'am, just complete the opposite.

13 Q Have you ever observed or had knowledge of
14 any Turn Key employees mistreating or abusing
15 inmates?

16 A No, ma'am.

17 Q Failing to respond to inmates' medical
18 needs?

19 A I'm just going to go on record and say
20 they exceeded my expectations.

21 Q Thank you for saying that. So as far as
22 you know, you do not -- you do not have any
23 knowledge of employees of Turn Key deliberately
24 ignoring medical needs of inmates?

25 A Absolutely not.

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1 personnel?

2 A And also to see my employees and let them
3 know how much I appreciate what they're doing.

4 Q During these visits, did you ever observe
5 Turn Key employees behave in any way that would lead
6 you to believe that they were ignoring medical needs
7 of --

8 A No, ma'am.

9 Q -- inmates?

10 A I can't say anything bad, you know, it's
11 not really a long period of time that we were
12 together, but what -- it was obvious that the
13 complaints and things dramatically went down when
14 Turn Key come in.

15 Q And --

16 A For me. I can't speak for Loyd and those
17 guys, but I can tell you my life got a lot better.

18 Q Well, that's -- that's good. So it sounds
19 like you don't have any personal knowledge as to how
20 Michael Smith was treated while he was there --

21 A No, I don't.

22 Q -- since you didn't see him?

23 A I didn't.

24 Q But did anybody complain to you regarding
25 his treatment this last time he was in jail that you

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1 of those cells, somebody would see it on the camera?

2 A Yes.

3 Q And during the med pass, were Turn Key
4 employees supposed to be accompanied by a jail
5 employee?

6 A Yes.

7 Q Was that for security reasons?

8 A Policy.

9 Q So --

10 A No one goes into a cell block, even an
11 employee, by themselves, not supposed to. Not
12 saying they don't do it, because I've caught them,
13 you know.

14 Q So for a Turn Key employee to go down
15 there without a jail staff or accompanying them --

16 A That was against policy.

17 Q -- that would be against policy?

18 A It's against the jail standards, it's, you
19 know, it's just --

20 Q Would you agree that most inmates that are
21 in jail do not want to be there?

22 A Oh, no, some of them do.

23 Q But most of them --

24 A Just kidding, no, ma'am, no one wants to
25 be there. I mean, it's just like nobody wants to be

1 if -- if we took every inmate said I need to go to
2 the hospital, there wouldn't have no inmates in
3 jail, I mean, nobody wants to be there, they need a
4 vacation, they need a break. I'm not saying that
5 happened in Mike's case, I'm just saying that's
6 pretty common, you know, everybody that comes in the
7 jail, they want -- I'm this, I'm that, you know.

8 Q So would you defer to a medical provider
9 to determine whether they actually have a medical
10 need?

11 A That's the reason we started the triage so
12 we -- you know, if we could get some indicators
13 through blood pressure, you know, the initial exam,
14 that would give us an indication of -- because I
15 wanted to -- I always wanted to err on the side of
16 caution, I mean, if there was any doubt, let's take
17 them to the hospital. And we would refuse them at
18 the door and make the arresting officer do it, you
19 know, and so that's -- that's one of the questions
20 that I had after the tort claim was filed, based on
21 what I had heard from the officers, or whatever was
22 said in something, I can't remember exactly what it
23 was, why he wasn't just sent on then, if he was
24 complaining from the moment of arrest, you know, but
25 those are just -- these are just speculations, it's

1 nothing I went right into, but it was a question I
2 think I asked Jeremy and I don't remember what his
3 response was then.

4 Q Uh-huh. So it sounds like in situations
5 like that, if, say, an inmate is asking for medical
6 assistance or to go to the hospital, whatever it may
7 be, you would defer to a Turn Key employee?

8 A Yes.

9 MR. HOWE: Objection; form.

10 Q (By Ms. Thompson) And that's because they
11 have the medical training and you don't; correct?

12 A Right. I mean, you know, I'd said in the
13 policy and things that when I was running it, you
14 know, it's -- you look at somebody and their pupils
15 are dilated or, you know, there's so many things
16 that you can miss and especially if you're not
17 trained and we're trying to fake our way through it,
18 and with the new drugs and the new things that are
19 going on, so Turn Key gave us another safety net
20 that I think probably saved a lot of lives, or saved
21 a lot of money as far as hospitalization, whether
22 through the taxpayers, through whatever system.

23 Q With reference to the book-in sheet that
24 you and Lowell discussed earlier about the
25 signatures missing in that sheet, so in that booking